

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2000-395

June 13, 2000

CENTRAL MAINE POWER COMPANY
Request for Approval to Continue Certain
Generation-Related Business Activities
(Proposed Lease for Cape Station Land
to FPL Energy Cape LLC)

ORDER

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

In this Order we grant an extension of the divestiture requirement in 35-A M.R.S.A. § 3204(5) to allow Central Maine Power Company (CMP) until April 1, 2004 to divest its interest in certain generation-related equipment and land. We further approve CMP's plan to lease the equipment and land to FPL Energy Cape LC (FPL).

II. BACKGROUND

On November 25, 1998, the Commission approved the sale of CMP's generation assets to FPL Energy Maine, Inc. (FPL-ME). *Central Maine Power Company, Divestiture of Generation Assets, Request for Approval of Sale of Generation Assets*, Docket No. 98-058. In that case, CMP represented that the land in South Portland, on which its Cape Station generating unit was sited, had potentially greater value if sold separately from the unit. Therefore, under its approved plan, CMP sold only the generating equipment to FPL-ME, while reserving the real estate for sale at a later date. The Commission's understanding was that FPL-ME would be removing the generating equipment from the site.

CMP subsequently changed its plan and now intends to lease part of the land and other assets¹ at the site to FPL. FPL will then operate the generating unit on the Cape Station site. On May 4, 2000, CMP sought approval of this amended divestiture plan, an extension, pursuant to 35-A M.R.S.A. § 3204(3), to divest generation assets after March 1, 2000 and a waiver of the Chapter 307 § 10(A) requirement that requests to divest generation assets after March 1, 2000 be made before December 1, 1999. On June 6, 2000, CMP submitted a copy of the lease agreement. As explained in this filing, CMP plans to invoke the provision in the lease under which it will receive 50% of net operating revenues as its rent payment.

¹ The land and other assets are defined as generation assets under 35-A M.R.S.A. § 3201(10): "Generation assets' include all real estate, fixtures, and personal property owned, controlled, operated, managed in connection with, or to facilitate, the generation of electric power."

III. DECISION

The Commission may extend the March 1, 2000 divestiture deadline "If the extension would be likely to improve the sale value of those assets on the market or would be likely to reduce the level of the utility's stranded costs." 35-A M.R.S.A. § 3204(3). The Commission previously granted an extension to Bangor Hydro-Electric Company (BHE) to allow it to continue certain generation-related activities after March 1, 2000, upon determining that allowing BHE to retain its generation interests would not be inconsistent with the overall goal of restructuring and would likely provide the greatest reduction in stranded costs. *Bangor Hydro-Electric Company, Request to Continue Certain Generation-Related Business Activities*, Docket No. 99-602 (Dec. 1, 1999).

CMP claims that allowing it to lease the land and equipment to FPL will meet both criteria. Under the proposed arrangement, CMP will not exercise any control over the generating equipment or its output. Therefore the lease will not limit competition in the generation market or limit consumers' ability to benefit from such competition. CMP also asserts that this lease arrangement should reduce the level of CMP's stranded costs. The Cape Station assets subject to the lease are not currently included in CMP's rate base. CMP will use any net operating revenues generated under the lease to reduce its stranded costs. CMP projects this revenue will be in excess of any revenue it would generate if it were to sell the property now and forego the lease payments. The lease also permits CMP to continue to market the property and to terminate the lease on 6 months notice should a sale appear to be advantageous.

Based on CMP's representations, we find that the lease arrangement is not inconsistent with the goals of restructuring and will likely reduce the level of stranded costs. Therefore we approve the arrangement as described in CMP's filings dated May 4, 2000 and June 6, 2000 and extend the time for CMP to sell its Cape Station generation-related land and equipment until April 1, 2004, pursuant to 35-A M.R.S.A. § 3204(3). We also grant a waiver of Chapter 307 § 10(A) to allow consideration of this request after December 1, 1999.

Dated at Augusta, Maine, this 13th day of June, 2000.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Nugent
 Diamond

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Civil Procedure, Rule 73, et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.